

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DOC #:
DATE FILED: 10/30/07

TERRY CASILLAS,

Plaintiff,

-against-

RICHARD F. DAINES,

Defendant.

07 Civ. 4082 (PKC)

ORDER

P. KEVIN CASTEL, U.S.D.J.

I have a letter dated October 18 from counsel for defendant Richard F. Daines seeking a pre-motion conference in connection with a proposed motion for judgment on the pleadings. Defendant also seeks a stay of discovery.

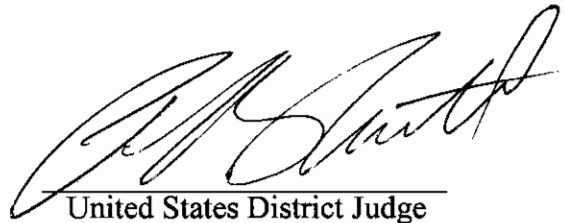
Plaintiff has responded by letter dated October 18 and asserts the view that defendant will not likely prevail on his motion, except her counsel expresses a willingness to withdraw her state law claims without prejudice.

Plaintiff would not oppose a stay of discovery of plaintiff-related facts provided that defendant agreed not to attempt to appeal any ruling adverse to defendant until the plaintiff's individual eligibility for Medicaid coverage were determined. Plaintiff also seeks to conduct fact discovery as to the "purported purpose of and justification for the regulation" as well as on other unstated issues.

I will waive the pre-motion conference requirement and set a schedule on defendant's proposed motion. Because defendant assumes the burden on the motion of accepting plaintiff's allegations as true, I will stay all discovery pending further order. Defendant's motion

is due December 19, 2007. Plaintiff's response is due January 21, 2008. Any reply from defendant is due February 1, 2008. The conference scheduled for January 11, 2008 is vacated. Given the relatively early stage of this action, I will grant plaintiff's application to dismiss without prejudice all state law claims asserted by plaintiff.

SO ORDERED.



United States District Judge

Dated: New York, New York
October 29, 2007